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COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: March 15, 2012
FILE NO.: 011-07901-2131-013

FROM: WILLIAM J. MCSWEENEY, CHIEF
DETECTIVE DIVISION

TO: LEROY D. BACA
SHERIFF

SUBJECT: **LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING**

The attached Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputy Oscar Barrios #[redacted].

STATION:	Century
DATE / TIME OF SHOOTING:	May 25, 2011, 2030 Hours
SUSPECT:	LUSK, William MH/19 (Deceased)
SUBJECT:	[redacted] MH/17 (Uninjured - In Custody)
LOCATION:	[redacted] South Central Avenue Los Angeles (Unincorporated Area)

DISTRICT ATTORNEY'S CONCLUSION:

"The evidence examined shows that Deputies Barrios and Garcia were attempting to stop a stolen vehicle driven by Lusk. Lusk drove up next to Barrios and pointed a handgun directly at him and Garcia. The deputies pursued the stolen vehicle until it came to a stop and Lusk and [redacted] fled in different directions. Deputy Barrios pursued Lusk and encountered him in a darkened area behind a tree and fence, in a position of advantage. Barrios gave several verbal commands to Lusk to show his hands, however Lusk did not comply and made a drawing motion from his waistband with one of his hands. Barrios fired several rounds, but Lusk fled to another position and hid from Barrios. Barrios re-engaged Lusk and again gave verbal commands for Lusk to show his hands, but Lusk pulled his hand from his waistband and extended his left arm toward Barrios. Deputy Barrios, in fear for his life, responded with deadly force."

"We conclude that Deputy Barrios acted in lawful self-defense. We are closing our file and will take no further action in this matter."

WJM:DS:no



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

February 27, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. # 11-0376
L.A.S.D. URN # 011-07901-2131-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 25, 2011, fatal shooting of William Lusk by Los Angeles County Sheriff Department (LASD) Deputy Oscar Barrios. It is our conclusion that Deputy Barrios acted in lawful self-defense.

The following analysis is based upon investigation reports, photographic evidence, and witness statements taken during the investigation by the LASD and submitted to this office by Homicide Bureau Detective Margarita Barron.

The District Attorney Command Center was notified of the shooting at 10:35 p.m., on May 25, 2011. The District Attorney Response team, comprised of Deputy District Attorney Alfred Coletta and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Deputy Barrios' voluntary statement was considered in this analysis.

FACTUAL ANALYSIS

On May 25, 2011, at approximately 8:30 p.m., LASD Deputies Oscar Barrios and Antonio Garcia were on duty in a marked patrol car and traveling eastbound 120th Street when they observed a vehicle traveling westbound 120th Street in opposing traffic. The deputies ran the license plate which indicated the vehicle was reported stolen. The deputies made a U-turn and attempted to locate the vehicle but it was now out of view. While traveling down adjacent streets, the deputies encountered the stolen vehicle at Robin Street and 118th Street. The deputies illuminated the interior of the suspect vehicle with a side spot light and saw two occupants.[1]

[1] The suspect vehicle was a Mitsubishi SUV stolen from the City of Santa Monica.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

The driver (later identified as William Lusk) negotiated a turn and drove northbound Robin Street and drove toward the deputies. When Lusk was adjacent to the deputies vehicle, he reached through the open driver's side window and pointed a semiautomatic pistol at the deputies. Deputy Barrios ducked down beneath the level of the dashboard in an attempt to gain cover, while Deputy Garcia jumped out of the passenger door and took a position of cover on the street. As Lusk drove away, Deputy Garcia got back into the patrol vehicle and Deputy Barrios turned the patrol vehicle around and pursued Lusk until he stopped at the end of the cul-de-sac on Robin Street. Both deputies saw Lusk exit the driver's side of the vehicle and run in a westbound direction.

The front seat passenger (a juvenile later identified as [redacted]) fled in a different direction than Lusk and was later apprehended hiding in the front yard of a residence. [redacted] was interviewed and admitted he stole the vehicle the day before, but denied any knowledge of a gun.

The deputies pursued Lusk on foot westbound along a driveway leading to a poorly lit carport area of an apartment complex. Deputy Barrios utilized his duty weapon affixed with a tactical light to illuminate Lusk after he discovered him to be crouched down between a large tree and a wood fence. Barrios ordered Lusk to show his hands. Lusk refused to comply with Deputy Barrios' multiple commands to show his hands. Lusk reached into his waistband and pulled one hand from the waistband in a drawing motion toward Deputy Barrios. Fearing that he would be shot, Barrios fired several rounds at Lusk. Lusk began to move eastbound along the wood fence line.

Deputy Barrios looked around the tree and down the fence line and saw Lusk now on his right side with his left side bladed toward him. Barrios again ordered Lusk to show his hands but Lusk raised his left hand from his waistband and pointed his left outstretched arm directly at Barrios. Fearing for his life, Barrios fired several more rounds at Lusk.[2] This time Lusk was incapacitated and Barrios immediately called for paramedics.

A post mortem examination was performed on May 29, 2011, by Doctor Jeffrey Gutstadt, Deputy Medical Examiner. Dr. Gutstadt ascribed death to multiple gunshot wounds. Blood specimens were collected from Lusk during the autopsy and submitted to the laboratory for a comprehensive screen. The laboratory test results revealed no amounts of alcohol or controlled substances in Lusk's blood.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. (*People v. Williams* (1977) 75 Cal. App. 3d 731.)

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[2] Deputy Barrios had to conduct a tactical reload during this latter part of the confrontation. Barrios did not recall how many rounds he fired. The investigation revealed Barrios fired a total of sixteen rounds.

In protecting himself, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. (*California Criminal Jury Instruction* 3470.)

Where the peril is swift and imminent and the necessity of action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to some other means to secure his safety. (*People v. Collins* (1961) 189 Cal. App. 2d 575.)

CONCLUSION

The evidence examined shows that Deputies Barrios and Garcia were attempting to stop a stolen vehicle driven by Lusk. Lusk drove up next to Barrios and pointed a handgun directly at him and Garcia. The deputies pursued the stolen vehicle until it came to a stop and Lusk and [redacted] fled in different directions. Deputy Barrios pursued Lusk and encountered him in a darkened area behind a tree and fence, in a position of advantage. Barrios gave several verbal commands to Lusk to show his hands, however Lusk did not comply and made a drawing motion from his waistband with one of his hands. Barrios fired several rounds, but Lusk fled to another position and hid from Barrios. Barrios re-engaged Lusk and again gave verbal commands for Lusk to show his hands, but Lusk pulled his hand from his waistband and extended his left arm toward Barrios. Deputy Barrios, in fear for his life, responded with deadly force.

We conclude that Deputy Barrios acted in lawful self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Alfred A. Coletta

ALFRED A. COLETTA
Deputy District Attorney
(213) 974-3888

c: Deputy Oscar Barrios, Serial #[redacted]